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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,697	08/10/2001	Johannes Petrus E Verduijin	98M035	3297

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Exxon Chemical Company  
Law Technology  
P O Box 2149  
Baytown, TX 77522-2149

EXAMINER

LANGEL, WAYNE A

ART UNIT	PAPER NUMBER
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1754

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

744697

Applicant(s)

Verduijn et al

Examiner

Langel

Group/Art Unit

1754

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-24 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-24 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lok et al. in view of either European 753484 or European 753485. Lok et al. disclose a method for producing crystalline silicoaluminophosphates by treating a synthesis mixture comprising the respective elements in the presence of crystalline molecular sieve seeds. (See the Abstract of Lok et al., and page 1, lines 13-17 of applicant's specification.) The difference between the process disclosed by Lok et al., and that recited in applicant's claims, is that Lok et al. do not disclose that the crystalline molecular sieve seeds should be in colloidal form. European 753485 and European 753484 both disclose the production of zeolites employing zeolite seed crystals in colloidal form. (See the Abstract of each reference.) It would be prima facie obvious from either European 753484 or European 753485 to provide the silicoaluminophosphate seed crystals in the process of Lok et al. in colloidal form,

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since the processes of European 753485 and European 753484 are both directed broadly to the production of any zeolite (see page 2, line 3 of European 753,485, and page 2, line 3 of European 753484), and one of ordinary skill in the art would expect that the advantages of using colloidal seeds in the processes of European 753485 and European 753484 would also be applicable to the process of Lok et al. which includes the production of silicoaluminophosphates.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19-23 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lok et al. No distinction is seen between the SAPO-34 recited in applicant's claim 20, and that disclosed in Example 32 in column 38 of Lok et al. There is no evidence on record showing that such silicoaluminophosphates would have different properties. It would be expected that the silicoaluminophosphates would have the same properties, since Example 32 of Lok et al. discloses that the product is made in substantially the same manner as disclosed in applicant's

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specification. Regarding claims 22 and 23, Lok et al. disclose in the Abstract that the zeolitic molecular sieves are useful as adsorbents or catalysts in chemical reactions such as hydrocarbon conversions.

Claims 7-23 are rejected under 35 U.S.C. § 112 paragraph 5 in constituting multiple dependent claims which depend from other multiple dependent claims.

Claims 1-24 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with vague and indefinite terminology. For example the phrases "elements necessary to form the phosphorus-containing molecular sieve", "for a time and at a temperature appropriate to form the desired molecular sieve", "structure type", "wherein the seeds are of . . .", render the scope of the claims vague and indefinite.

Claims 23 and 24 provide for the use of a molecular sieve, but, since the claims do not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 23 and 24 are rejected under 35 U.S.C. § 101 because the claimed recitation of a use, without setting forth any steps

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involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. § 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Wendelbo et al., Barger et al., Pellet et al. and Wilson are made of record for disclosing various methods for producing silicoaluminophosphates.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne A. Langel whose telephone number is (703) 308-0248. The examiner can normally be reached on Monday through Friday from 8 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on (703) 308-3837. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

WAL:cdc

November 12, 2003

*Wayne A. Langel*  
WAYNE A. LANGEL  
PRIMARY EXAMINER